

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 13, 2005. At the time of the Office Action, Claims 1-25 were pending in this Application. Claims 1-25 were rejected. Claims 2, 6, 10, 14 and 23 have been amended to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

Double Patenting Rejection

The Examiner provisionally rejected Claims 1-25 based on the judicially created double patenting doctrine over Claims 1-30 of related Application 09/955,684 (hereinafter "'684 application") stating that the subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter.

Applicants respectfully traverse the rejection. However, to reduce the cost and time required to obtain patent protection, a Terminal Disclaimer filed in compliance with 37 C.F.R. 1.32(b) is attached hereto. The Terminal Disclaimer is offered in the event the Examiner converts the provisional rejection to a rejection based on non-statutory double patenting grounds. The '684 application and the instant patent application are commonly owned by Dell Products L.P.

Rejections under 35 U.S.C. § 112

Claims 1-25 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 2, 6, 12, 14 and 23 to overcome these rejections and respectfully request full allowance of these Claims, as amended.

With respect to Examiner's comment in paragraph 14 that the phrase "associated with" does not clearly indicate a physical interconnection, Applicants respectfully traverse

and submit that the phrase "associated with" clearly establishes a connection between the associated elements. Applicants respectfully request reconsideration and favorable action.

With respect to Examiner's comments in paragraph 16 regarding Claim 22, Applicants note that Claim 22 recites, "sealing the processing resources . . ." and "adjusting the power supplies" Accordingly, Applicants submit that there is no redundancy within Claim 22. Applicants request reconsideration and favorable action.

Rejections under 35 U.S.C. § 102

Claims 1-25 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,859,882 issued to Henry T. Fung ("Fung"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

More specifically, Independent Claim 1 recites, among other elements, a "power management engine operable to adjust the power supplies to optimize power consumption."

With respect to Independent Claim 1 Examiner cites to Fung as disclosing a power management engine that adjusts the power supplies to optimize power consumption. However, Applicants submit that the portions of Fung describing the management module fail to disclose, teach or suggest the optimization of power consumption. For instance, Fung states:

The Management Module is also responsible for Power Supply Control and Monitoring. The power supplies of the Server and Switch Modules are controlled by the Management Module, with the ability to cycle power or shut down a module upon

receipt of an appropriate network control center message and is under security protection. All power supplies, either chassis or module based, are monitored. When an alarm or failure condition is detected, an alert is sent via email or SNMP depending on system configuration.

Col. 28, lines 26-35.

Power Supply Control and Monitoring features are implemented in that the power supplies 110a-1, 110a-2 of the Server Modules 112 and Switch Modules 104 are controlled by the Management Module 108, with the ability to cycle power (or voltage) or shut down a module upon receipt of an appropriate message from the Information Technology (IT) administrator's network control station. This feature may be via secure access. All power supplies, whether a part of the system chassis 101, Server Module 112, or Switch Modules 104, are monitored for proper power supply operation. When an alarm or failure condition is detected for any power supply module 110 an alert or other information bearing message is sent via email or SNMP, depending on system configuration.

Column 24, line 65 – Column 30, line 11.

As described, the power management teachings of Fung are limited to 1) cycling power or shutting down upon receipt of an appropriate message from the IT administrator's control station, 2) monitoring power supplies for proper orientation and 3) sending an appropriate email when an alarm or failure condition is detected for a power supply. Accordingly, Fung makes no disclosure, teaching or suggestion of adjusting power supplies to optimize power consumption as recited in Claim 1.

Independent Claim 12 is directed to a method that includes, among other steps, "adjusting the number of operation power supplies to satisfy the change in processing resources." Similarly, Independent Claim 22 recites, among other steps, "adjusting the power supplies in advance to meet the processing resource change."

For the reasons discussed above, Fung fails to disclose, teach or suggest adjusting of power supplies based upon predicted requirements as recited in Independent Claims 12 and 22. Accordingly, Applicants submit that the §102 rejection to Independent Claims 12 and 22 is not properly supported.

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Applicants respectfully request reconsideration, withdrawal of the §102 rejections and full allowance of Independent Claims 1, 12 and 22 and Claims 2-11, 13-21 and 24-25 which depend therefrom.

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CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of Claims 1-25 as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 02-0383 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2548.

Respectfully submitted,
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